

Kentucky Real Estate NEWS

A Publication of the Kentucky Real Estate Commission

Do Not Print Another Advertisement Without Reading This First!

Over the years, the Commission has received a steady flow of anonymous letters regarding violators of the advertisement statute. KRS 324.117(4) states that all listed property shall include the name of the real estate company or the name of the principal broker. In the past, the Commission has sent letters to individuals, sometimes repeatedly, informing them of the requirements of KRS 324.117.

The Commission is now taking a stronger stance against violators of this statute. The first time a licensee violates this statute, a warning letter will be sent out. The Commission is tracking all of the warning letters. Any future violations will result in the licensee paying a \$500.00 fine. If the licensee does not pay the fine, the Commission will file a complaint.

There are a few exceptions to the requirements of KRS 324.117. If a licensee is selling, renting, leasing or otherwise dealing in his or her own property, he or she is not required

under this statute to include the company name or the name of the principal broker. However, the Commission advises licensees to check with their principal brokers on company policies regarding advertising of listed property.



Many times, licensees have told the Commission that the seller has placed the advertisement in the newspaper without the licensee's consent. The Commission has ruled that the broker must be in charge of all advertisements, regardless of who places those advertisements. There is new language in KRS 324.117(4) which states: "If listed property is advertised by a customer or a client of a listing licensee, the licensee shall, at minimum, provide the customer or client with written notification of the requirements of KRS 324.117. The licensee shall keep in his or her files a copy of the notification and any other documentation that is generated by the licensee as proof of his or her compliance with this section."

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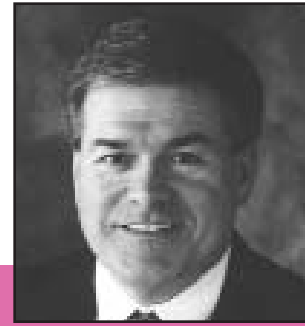
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Melissa Kime

Comments from the Chair

**by: Bob Roberts,
Chair**



I have been on the Commission for 14 years, and I am currently serving as the Chair. I thought it might be interesting for those of you who have never attended a Commission meeting to know what takes place each month.

The Commission meetings are run by the Chair based on Roberts Rules of Order, and a majority vote decides all issues and cases. The Commission is made up of five members, all appointed by the Governor of Kentucky. The Chair only votes in the event of a tie. If a particular Commissioner or staff member has a conflict with a case, he or she will recuse himself or herself from the matter.

Every month, the Commission has a lengthy agenda of issues to address. First, the Commission looks at the Education Department's report. Each month, we look at course, school and instructor approvals. Our Education Director, Linda Poliskie, goes over every application to assess whether the content complies with our educational guidelines. In addition, she reviews applications from schools and instructors to ensure that our requirements are met. We also have to rule on waiver requests, delinquency plans, testing contracts and testing question issues.

Our Executive Director, Norman Brown, then gives a report concerning the Commission's finances

and budget. The Commission takes its role as financial stewards very seriously, and we review the budget and finances very carefully every month. In addition, we hire an independent auditor to review our accounts every year. We are happy to report that our auditor has always given us an excellent rating.

Next, our Administration Director, Shelly Saffran, reports on office issues, such as personal service contracts, personnel and health care concerns, errors and omissions insurance and newsletter articles.

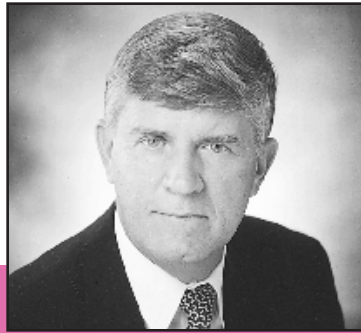
Licensees and attorneys sometimes schedule a time to present a specific concern to the Commissioners. We generally allow each person about fifteen minutes. Most people also submit documentation prior to the meeting so that the Commission can review their issues. If possible, we then vote on the issue and our legal counsel drafts a letter regarding our decision.

Finally, our General Counsel, Lee Harris, presents the legal report. We review the current number of cases pending and the status of each case, investigation and appeal. We then review the legal questions and concerns. These usually deal with advertising questions and violations, inducement and rebate questions, promotion of

Continued on Page 3

From the Director's Desk

by: Norman E. Brown,
Executive Director



As usual, things here at the Commission are very busy! I would like to use this column to outline several publications and programs that we are currently implementing to assist the licensees and consumers of our fine state.

First, we are working on a buyer brochure and a seller brochure, modeled after similar publications from another regulatory agency in Canada. These brochures will outline important information and facts for both buyers and sellers of real estate. Licensees will be able to use them in client presentations, and we will be giving them as hand-outs at homebuyer seminars.

Our fair booth this year will be located in the South Wing. We will be using our "Get Real" theme to encourage consumers to use a licensed real estate agent or broker and to encourage unlicensed people to enter the real estate business. Over 700,000 Kentuckians visit the Fair every year, and this is our best opportunity to reach the consumers of this state. If you happen to be out at the Fair, please stop by to see our new state-of-the-art booth. We would love to put a face with a name.

As a joint project, the Commission and the Kentucky Association of Realtors® are in the process of developing a safety

brochure, which will give licensees tips on how to best protect themselves when showing properties and meeting new clients. While our incidents of violence against licensees have been low, other states have experienced increasing problems with attacks on licensees and scams to enter vacant homes. It is best to be pro-active and to educate ourselves on how to avoid these types of encounters – rather than waiting for tragedy to strike.

We are of course continuing our trek around the state, giving homebuyer seminars to consumers and teaching licensees about license laws and legal issues.

The Commission is joining forces with the Kentucky Association of Realtors® to establish a task force to study the issues of inducement and rebate laws in this state. The Commission receives numerous questions, complaints and concerns about these laws on a weekly and monthly basis.

Our new website address is www.krec.ky.gov. There is a survey on the website in which you can offer your feedback and advice on how we can better serve the public and the licensees. If you ever have suggestions of how we can better serve you or the real estate consumers, please let us know.

Comments from the Chair

Continued from Page 2

out-of-state properties and the like. During our meeting, we also have applicant hearings. Each applicant who has a felony at any time in his or her lifetime or a misdemeanor in the past five years must appear before the full Commission for a hearing. The Commission has their entire criminal and work history, as well as references and an investigation report. The Commission then takes testimony from the applicant and any witnesses. The Commission then goes into Executive Session to discuss whether the applicant will be approved for licensure.

We also receive a binder with the pending legal cases. Each month, we review approximately 30 cases at different stages to determine whether to send the case for investigation, to dismiss it, to order it to hearing or to adopt a settlement agreement or recommended findings from the Hearing Officers. After the meeting, the legal staff sends out the Orders, indicating the Commission's decision.

**LET US
KNOW WHAT
YOU THINK!**

**Log on to the
Commission's
website and fill out
our survey. We want
to hear your
thoughts and ideas.
(www.krec.ky.gov)**

INFORMED CLIENTS AND CUSTOMERS

By: *Lee B. Harris, General Counsel*



There are numerous laws and issues involved in a real estate transaction. Oftentimes, consumers do not understand the complexities or nuances of contract, agency and license law. So long as everything goes smoothly, these issues may not be addressed; however, if a problem arises, it is a benefit to have a well-informed client or customer.



The question is: how can the client or customer become informed? The answer is simple: the agent or broker should inform the client or customer of the issues at each stage of the process.



For example, the Commission receives a lot of calls from consumers who are in a multiple offer situation. The first buyer to make an offer believes that he or she will have the opportunity to counter or to raise his or her offer. The licensee should inform the offeror that this is simply not the case – if the buyer wants the property, he or she should make a reasonable and sound offer at the beginning of the process. Likewise, many buyers believe that a verbal acceptance is binding. Licensees should not

verbally negotiate; however, if there are verbal negotiations, the licensee should make it absolutely clear to the consumers that there is no binding contract until an agreement is actually signed by the seller.

In addition, many consumers become frustrated when making offers on properties owned by out-of-state mortgage or relocation companies. The frustrations stem from the fact that many of these companies will not agree to anything in writing until the very end of negotiations and will take several weeks to respond to any offers or counteroffers. This frustration can easily be avoided if the licensee informs the buyer of the possible delays and possible verbal counter-offers at the outset.

The point of these examples is that consumers do not like surprises or unexpected delays. If the licensee can impart his or her wisdom and experience on a consumer, then the transaction will likely be smoother. For instance, a buyer does not want to find out the rules of multiple offers after another buyer has already made a better offer.



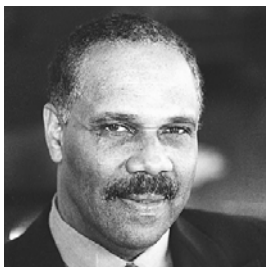
COMPANIES NOT OWNED BY THE PRINCIPAL BROKER

In most cases, the principal broker and the owner of the real estate company are one and the same. However, this is not required by law. There are numerous companies in this state that are owned by a sales associate or an unlicensed individual. Those owners then hire a principal broker to run the company.

Before hiring a principal broker to run the company, the owner should draft an employment agreement that deals with all kinds of potential conflicts and problems. For instance, the owner and the principal broker should consider what will happen if the principal broker leaves that company. Who will keep the listings and current pending contracts?

The Commission has recently seen several instances in which the owner and the principal broker do not have such an agreement. When the principal broker and the owner decide to part ways, for whatever reason, there is confusion about how to handle the listings and any pending transactions. All of those issues should be dealt with before the principal broker even takes over the company.

A well-crafted agreement will serve to ensure a smooth transition. This is important not only for the owner and the broker but for the consumer buyers and sellers as well. By having an agreement in place, it will help to avoid problems in the future.



Governor Fletcher Signs House Bill 244 into Law

The following are the major revisions to the license law that were passed by the General Assembly at its 2004 session. To view the complete Senate Bill, log on to the Legislative Research Commission's website at www.lrc.ky.gov/RECORD/04RS/SB244/bill.doc. This bill became law on July 15, 2004. It is now in effect and must be followed. Please review the specific changes and make sure that you follow the new laws. If you need additional information on the meaning or effect of any of these changes, please feel free to contact the Commission's legal department. In addition, you may want to attend a law course or core course to update yourself on the laws and to receive practical advice on how to implement these laws into your daily practice. Below is a summary of the major changes:

REFERRAL FEE (KRS 324.020(4))

This statute was clarified to say that "No broker shall split fees with or compensate any person who is not licensed to perform any of the acts regulated by this chapter, except that a broker may pay a referral fee to a broker licensed outside of Kentucky for referring a client to the Kentucky broker." The Commission has never allowed out-of-state brokers to receive any payment other than a referral fee. This statute merely clarifies longstanding Commission law.

ADVERTISING (KRS 324.117(4))

This statute was clarified to say that whenever property is listed, the licensee must include the name of the real estate company as it appears on the license or the name of the principal broker with whom the licensee is affiliated in ALL ADVERTISEMENTS of the listed property, regardless of who places the advertisement. The only exception to this law is if the licensee is selling, renting, leasing or otherwise dealing in his or her own property. If listed property is advertised by the client or customer, the listing licensee shall provide the client or customer with written notification of the requirements of this statute and the licensee shall keep a copy of such notification.

INVESTIGATIONS (KRS 324.150(2))

This statute was clarified to allow the Commission, while investigating violations, to compel the production of books, papers, documents, and other evidence, to review evidence and to enter the office or branch office of the licensee for the purpose of inspecting required documents which relate to the investigation.

UNLICENSED BROKERAGE (KRS 324.990(1))

This statute makes a first time offense of unlicensed brokerage a Class A misdemeanor and any subsequent offenses will be a Class D felony. Licensees will not be subject to this penalty if they engage in unlicensed real estate brokerage due to failure to renew a previously valid license.

ERRORS AND OMISSIONS INSURANCE (KRS 324.395(7))

This statute was amended to raise the maximum annual premium ceiling for errors and omissions insurance provided under the group policy for licensees from one hundred twenty-five dollars (\$125) to two hundred dollars (\$200).

Now that the statutes have been passed, the Commission must promulgate regulations to interpret the statutory changes. The Legal Department is currently working on a regulation proposal to submit to the Legislative Research Commission. This process generally takes six to nine months to complete. Once the regulations have been approved, we will update you on the changes in the newsletter, on our website and in continuing education courses.



Governor Signs Bill into Law

**First Row: John Chandler, Judy Piazza,
Denise Wade, Governor Ernie Fletcher,
Betty Kaiser and Bob Roberts**

**Second Row: Norman Brown, Ken Warden,
Jerry McMahan, Ron Smith and Lee Harris**

Be Careful When Disclosing Square Footage

*By: Shelly Saffran,
Director of Administration*

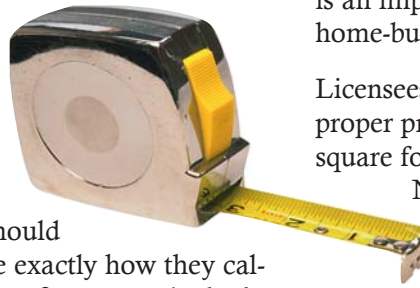
One of the first questions a buyer usually asks about a piece of property is: "What is the square footage?" Many buyers feel it is important because it allows them (although not always accurate) to estimate the value of the home and to compare it with other properties. However, when measuring square footage, there is not a statute or a regulation outlining the proper procedure.

Under KRS 324.160(4)(b), licensees shall not make any substantial misrepresentation about a piece of property. Licensees are not required under license law to report square footage. However, licensees must make sure that if they do choose to report square

footage, they report it accurately.

Licensees should also disclose exactly how they calculated square footage and whether or not they actually measured the property themselves or relied on a third party's measurement.

Licensees should also be aware that when they are reporting square footage, they only calculate "living area" square footage. It should be heated, finished and directly accessible from other living areas. If licensees rely on a previous listing, survey or appraisal report, they should disclose to the parties where they obtained the square footage amount. Licensees should not rely on a square footage total calculated by the home owner or a tax or PVA record. Licensees should



encourage buyers to obtain their own square footage calculation if it is an important factor of their home-buying decision.

Licensees need to be trained on the proper procedure for measuring square footage. The American National Standards

Institute (ANSI) has developed the American National Standard for Single-Family Residential Buildings: Square Footage-Method for Calculating. The National Association of Realtors® was a contributing member in the development of this standard. For more information on obtaining these standards, call the NAHB Research Center at 1-800-638-8556.

The Kentucky Real Estate Commission has not adopted a particular standard and licensees should check with their principal brokers or local Board of Realtors® for the preferred method of measurement.

Updating the Seller's Disclosure of Property Conditions Form

By Lee B. Harris, General Counsel

The Seller's Disclosure of Property Conditions Form ("Seller's Disclosure") is designed for the seller to give the buyer the best and most accurate picture of the defects in the property the buyer is interested in purchasing. If a seller has entered into a contract with a potential buyer, and that contract falls through due to defects in the home or items uncovered in a home inspection, the seller must update the Seller's Disclosure to reflect that. The Commission has seen complaints and lawsuits in which the seller did not update the form, a subsequent buyer purchases the home and finds the defect. When the buyer learns that this defect was in fact revealed to the seller through a previous home inspection, it is quite easy for the buyer to prove that the seller knew or should have known of the defect. In addition, if the listing agent was involved in those negotiations, it is also easy for the buyer to show that the listing agent was aware of the defect and failed to disclose it.

In some instances, the seller may disagree with the results of the home inspection. If this occurs, the seller has several options. The seller can order another home inspection and provide details from both inspections, showing the differences in each. Or, the seller could provide details of the home inspection, state his or her objection to those and encourage any future prospective purchasers to specifically check out the disputed defects to their own satisfaction.

It is very important for the listing agent to make sure that the seller updates the Seller's Disclosure after a deal has fallen through due to inspection negotiations. If not, both the listing agent and the seller could be held responsible for failing to disclose what then becomes a known defect. In no case should the seller simply dismiss the inspection results outright without further action. It could be possible that there are ten disputed items on the inspection report and one of those items turns out to be legitimate. The seller would then unwittingly be failing to disclose known defects.

Former Commissioner Julius A. Wise Remembered



Recently, the real estate industry lost a very valuable member and friend. On Friday, July 2, 2004, former Commissioner Julius A. Wise passed away in his hometown of Elizabethtown, Kentucky. The funeral was held at Elizabethtown Baptist Church. Current Chair Bob Roberts and former Commissioner

Jim Huff served as pallbearers. Julius is survived by his wife, Ina, son, Scott, daughter, Juliana and two grandsons, Julius Alexander and Gavin.

Julius began his real estate career in 1958 as a sales associate and obtained his broker's license one year later. He founded Wise Auction and Real Estate in 1968 and remained principal broker until his death. During his career, Julius was associated with many organizations. He was Past President of the Hardin County Board of Realtors® and was a member of the National Association of Realtors®, the Kentucky Association of Realtors®, the Association of Real Estate License Law Officials, the Heart of Kentucky Association of Realtors®, the Lincoln Trail Homebuilder's

Association and the National Auctioneers Association.

In 1983, Julius was appointed as a Commissioner for the Kentucky Real Estate Commission by Governor John Y. Brown, Jr. He was elected Chair of the Commission in 1986, 1988 and 1994. He was appointed by three other Governors and served on the Commission until 1994.

Julius so enjoyed being on the Commission, and he leaves a legacy of good service and fond memories. He was an asset to the profession and was an instrumental part of mandating errors and omissions insurance. Julius was never without his smile or his sense of humor. He will truly be missed by the Commissioners, the staff and the real estate community.

BUILDER DEPOSITS

*By: Lee B. Harris,
General Counsel*



Often, when a buyer is purchasing a home that is under construction at the time, the builder will request a deposit or down payment. Sometimes, this deposit goes towards building expenses. In most cases, the deposit or down payment is not to be placed into escrow and is not refundable should the deal fall through for some reason.

The Commission has seen some problems arise out of these non-refundable deposits or down payments. Agents who are representing buyers on these deals should be particularly cautious and advise their buyer-clients of the

risks associated with such a payment.

First, the contract should clearly and specifically state that the money is not being placed into an escrow account but that it is being paid directly to the builder – and that it will be spent! Many times, buyers believe that the money is being paid to the builder to hold, but is not actually being spent. In addition, if there is standard, pre-printed language in the purchase contract indicating that the deposit will be placed into a broker's escrow account, be sure to mark out this clause. By no means should the contract indicate that the broker will hold the money when, in fact, it is going directly to the builder.

Second, the buyer's agent should tell the buyer that there are risks associated with paying a non-refundable deposit. For example, what if the property never closes and the builder has spent the money on building materials? Is the buyer truly prepared to lose that amount of money? Is there a provision in the contract to protect the buyer in case the property does not

close due to the seller's default?

Third, it is advisable to check out the builder's references and past clients, to determine whether there is any additional risk. The buyer's agent should advise the buyer to ask the builder for a list of other customers for whom the builder has worked. In addition, the buyer's agent can point the buyer to the local Homebuilder's Association to determine if the builder is a member of that organization. If so, the buyer should ask whether there have been any complaints filed and how those were resolved. The buyer's agent may want to advise the buyer to check with the Better Business Bureau and the local courts to determine whether the builder has had any complaints or lawsuits filed. Certainly, if the buyer's agent is aware of any past problems, the buyer's agent should inform the buyer of those facts.

If there are any red flags raised by any of the above steps, the buyer may want to consider negotiating a different sort of deposit or down payment, if possible.

MISSISSIPPI AND KENTUCKY SIGN A NEW RECIPROCAL AGREEMENT

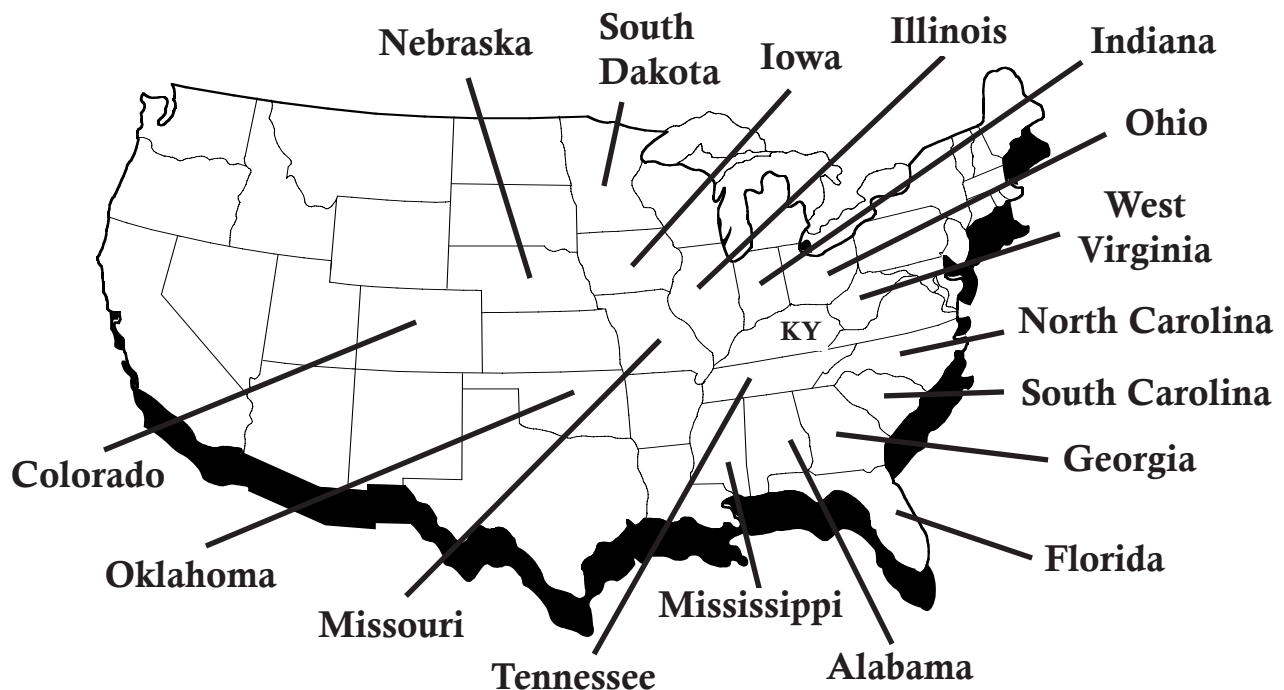
At the June 17, 2004 Commission Meeting, the Commissioners approved a new reciprocal agreement between the Kentucky Real Estate Commission and the Mississippi Real Estate Commission. The agreement is very similar to several of the other reciprocal agreements Kentucky currently has with other approved states. Licensees interested in obtaining reciprocal agreements with other states can log on to the Commission's website (www.krec.ky.gov) for the specific requirements of each agreement.

Reciprocal agreements are based on "active" licensees; therefore, licensees must be active at the

time of application. If you are an active Kentucky licensee and would like to become licensed in another state through reciprocity, you will first need to contact that state for an application. Many states will require a "Letter of Certification" to show that the licensee is in good standing in Kentucky. To obtain this document, simply send your request in writing to the Kentucky Real Estate Commission along with a \$10.00 check made payable to KREC.

Below are the states that have reciprocal agreements with Kentucky and the contact information for each state. Remember, more information can be found on the Commission's website.

CURRENT RECIPROCAL STATES



Reciprocal States Phone Numbers

Alabama Real Estate Comm. (334) 242-5544
Colorado Div. of Real Estate (303) 894-2166
Florida Div. of Real Estate (407) 481-5632
Georgia Real Estate Comm. (404) 656-3916
Illinois Real Estate Comm. (217) 785-9300
Indiana Professional Licensing (317) 232-2980
Iowa Professional Licensing Div. (515) 281-7393
Mississippi Real Estate Comm. (601) 932-9191
Missouri Real Estate Comm. (573) 751-2628

Nebraska Real Estate Comm. (402) 471-2004
North Carolina Real Estate Comm. (919) 875-3700
Ohio Division of Real Estate (614) 466-4100
Oklahoma Real Estate Comm. (405) 521-3387
South Carolina Real Estate Comm. (803) 896-4400
South Dakota Real Estate Comm. (605) 773-3600
Tennessee Real Estate Comm. (615) 741-2273
West Virginia Real Estate Comm. (304) 558-3555

PROTECT YOURSELF EVEN IF YOUR LICENSE IS INACTIVE



If you place your license on inactive status, you need to be aware of special considerations regarding your errors and omissions insurance coverage. The current Kentucky group policy provides: "In the event an Insured's license is placed on inactive status during a period in which the Insured has paid the applicable premium, the policy will remain in effect for the remainder of the Individual Policy Period as if the license had not been placed in inactive status, regardless of whether the license is re-activated, except that coverage will not be provided for acts, errors or omissions of the Insured which occur during the period when the license was in an inactive status."

The current group policy is written on a "claims-made and reported" basis. This means that coverage is provided only for those Claims that are made against you and reported to the insurance company in writing during the policy period. If you place your license on inactive status, you may still be eligible for limited coverage after the policy period. The current group policy provides: "In case of cancellation or nonrenewal because a Licensee retires, places license on inactive status or allows license to expire, the policy will apply to Claims first made against the Insured and reported to the Company up to ninety (90) days after the effective date of cancellation or nonrenewal. Said ninety (90) day period will be hereinafter referred to as the Automatic Extended Reporting Period.

After you place your license inactive, you are not required by law to maintain your coverage.

However, a prudent individual will maintain coverage in order to avoid personal liability for Claims made after expiration of the policy period. An Optional Extended Reporting Period Coverage, commonly known as "Tail Coverage" may be purchased to cause the policy to apply to Claims first made and reported up to three (3) years after the effective date of the cancellation or nonrenewal. Tail Coverage can only be purchased within ninety (90) days after the licensee's policy has terminated. Tail Coverage is important because so many professional liability Claims are not made until months after the subject transaction occurs, and some may even be made years after the transaction.

The current group policy provides:

Coverage afforded by the Automatic and Optional Extended Reporting Periods:

1. Shall apply solely to Claims arising from a negligent act, error or omission: (a) committed or alleged to have been committed subsequent to the Retroactive Date, and (b) committed or alleged to have been committed prior to the effective date of cancellation or nonrenewal, and (c) which are otherwise insured under all the other terms, conditions and exclusions of this policy.
2. Shall not apply to any Claim, which is insured by any other policy of insurance, nor as excess above such other policy of insurance.
3. Nothing in Paragraphs 1 or 2 shall serve to increase the Limits of Liability as provided in Insuring Agreement II or the Supplementary Payments as pro-

vided in Section IV.

The Limits of Liability for any Extended Reporting Period shall be a part of, and not in addition to, the Limits of Liability listed on the Declarations.

The current group policy requires that the Claim be reported to the insurance company, in writing, during your policy period or any extended reporting period. The Insured must give written notice by submitting a completed Notice of Claim Form to the Company as soon as possible after the Claim is first made but in no event more than ninety (90) days after the Insured becomes aware of such Claim. Such written notice shall include the name of the licensee and shall include the time, place and details of the Claim. Failure to report a Claim in a timely manner could jeopardize the coverage provided by the policy. RISC utilizes a simple Claim reporting form which is located on its web site www.risceo.com, however, for assistance in reporting a Claim, please call (800) 637-7319.

This information is for illustrative purposes only and is not a contract. It is intended to provide a general overview of the products and services offered. Only the policy can provide the actual terms, coverages, amounts, conditions and exclusions. This program is only available in Kentucky.

This article was submitted by the Commission's group insurance carrier, Rice Insurance Services, Inc. To contact them, call 502-897-1876 or 1-800-637-7319.



Disciplinary Actions



Nhat Hoang (Louisville) Case No. 03-0043

Violation: Mr. Hoang was found in violation of KRS 324.160 (4)(s) for failing to respond to a Sworn Complaint sent to him by the Commission. The Commission deemed the facts stated in the complaint as true since Mr. Hoang did not respond to the complaint and found him in violation of KRS 324.160 (4)(b) and (v) for making a substantial misrepresentation and for conduct which constitutes improper, fraudulent or dishonest dealings. Mr. Hoang was found to have removed his clients names from the clients' deed without their permission and to have put his name on the deed. Mr. Hoang then demanded money to transfer the deed back to the owners.

Disposition: Mr. Hoang's real estate license was revoked and he was fined in the amount of one thousand dollars (\$1,000.00).

Greg B. Boyles (Louisville) Case No. 02-0113

Violation: Mr. Boyles was found in violation of KRS 324.160 (4)(j) for being convicted of a felony while holding a Kentucky real estate license.

Disposition: The Commission adopted the Hearing Officer's Recommended Findings of Fact and Conclusions of Law, which state that the license of Greg B. Boyles is suspended for two years. After two years, he may seek reapplication by presenting the Commission with proof of good character.

Robert P. Carter (Lexington) Case No. 03-0086

Violation: Mr. Carter was found in violation of KRS 324.160(4)(v) for improper conduct. The Commission issued an order of default.

Disposition: Mr. Carter's license shall not be reinstated until he has complied with all of the requirements for licensure, and until he has submitted proof to the Commission that he has successfully completed an alcohol treatment program since April 3, 2003, which is the date of his third DUI conviction. If Mr. Carter's license is reinstated, it shall be on probation for a period of twelve (12) months from the date of reinstatement.

Russell G. Dunn (Lexington) Case No. 03-0077

Violation: Mr. Dunn agreed that he unintentionally violated KRS 324.160(4)(u) by violating the provisions of KRS 324.111 (4) and (6), when he released the escrow account funds in question in a manner that all parties agreed did not involve fraud or result in any monetary loss to the complainant in this matter.

Disposition: Mr. Dunn agreed to pay a fine in the amount of one thousand dollars (\$1,000.00) of which five hundred dollars (\$500.00) shall be waived upon Mr. Dunn successfully completing nine (9) hours of continuing education, in addition to any hours already required by Kentucky law.

Jerry D. Cooper (Anchorage) Case No. 03-0088

Violation: Mr. Cooper agreed to a violation of KRS 324.160(4)(h) for failing to account for or remit, within a reasonable time, monies belonging to another that came into Mr. Cooper's possession and KRS 324.160(u), specifically KRS 324.111, for failing to place a contract deposit into his escrow account.

Disposition: Mr. Cooper agreed to pay to the Complainant a sum in the amount of eight thousand dollars (\$8,000.00). Mr. Cooper agrees that he shall not voluntarily file for bankruptcy. Mr. Cooper agreed to pay a fine in the amount of five hundred dollars (\$500.00) and enforcement of the fine shall be waived upon Mr. Cooper's successful completion of six (6) hours of continuing education, in addition to any hours already required by Kentucky law.

Michael P. Ziegler (Hebron) Case No. 03-0131

Violation: Mr. Ziegler agreed that he violated KRS 324.160(4)(g) for attempting to represent a broker without having that broker's consent.

Disposition: Mr. Ziegler agreed to pay a five hundred (\$500.00) fine and to attend six (6) hours of continuing education, in addition to any hours already required by law.

Charles H. Padgett (Clarksville, Tennessee) Case No. 03-0100

Disciplinary Actions

Continued from Page 10

Violation: Mr. Padgett stipulated that he unintentionally violated KRS 324.160 (4)(u) when he unintentionally violated KRS

324.020(1) by listing a piece of property and engaging in property management during a period that he was not licensed to engage in real estate brokerage in Kentucky.

Disposition: Mr. Padgett agreed to pay a sum in the amount of one thousand seven hundred sixty-seven dollars and forty-five cents (\$1,767.45), which represents all fees earned by him while his license was cancelled. Mr. Padgett also agreed to complete three (3) hours of continuing education in a Commission-approved law course.

Eugene J. Gudenkauf (Radcliff)
Case No. 03-0070

Violation: Mr. Gudenkauf agreed that he unintentionally violated KRS 324.160(4)(b) by incorrectly representing to his buyer/client that a certificate of occupancy had been issued for the property in question.

Disposition: Mr. Gudenkauf agreed to pay the complainant the sum of seven hundred sixty dollars (\$760.00). Mr. Gudenkauf agreed to complete six (6) hours of continuing education in addition to any hours already required by Kentucky law.

F. Nelson Collins (Louisville)
Case No. 03-0126

Violation: Mr. Collins agreed that he unintentionally violated KRS 324.160(6) and KRS 324.160(4)(u), as illustrated by 201 KAR 11:121, Section 1(2) and KRS 324.160(4)(m), by failing to

adequately supervise his affiliate licensees, causing them to offer, unintentionally, an illegal inducement to the general public.

Disposition: Mr. Collins agreed to pay a fine in the amount of five hundred dollars (\$500.00). Mr. Collins also agreed to successfully complete, within twelve (12) months of the Commission's Final Order, six (6) hours of continuing education in a Commission-approved law course, in addition to any hours already required by Kentucky law.

Nancye W. Hancock (Pendleton), **Grant B. Neidigh** (LaGrange), **Constance C. Byers** (LaGrange), **Lisa H. Gowing** (LaGrange), **Lee T. Hamilton** (LaGrange), **Phil L. Hornbeck** (Crestwood) and **Jeffrey L. Combs** (LaGrange)

Case No. 03-0126

Violation: All of the individuals above agreed to an unintentional violation of KRS 324.160(4)(u), as illustrated by 201 KAR 11:121, Section 1(2), and KRS 324.160(4)(m) by offering an illegal inducement to the general public.

Disposition: All agreed to pay a fine in the amount of two hundred dollars (\$200.00) each. They also agreed to each successfully complete, within twelve (12) months of the Commission's Final Order, six (6) hours of continuing education in a Commission-approved law course, in addition to any hours already required by Kentucky law.

Patricia A. Nuccitelli

(Radcliff) Case No. 03-0141

Violation: Ms. Nuccitelli agreed

to a violation of KRS 314.160(6) for failing to adequately supervise a licensee affiliate and KRS 324.160 (4)(u), specifically, 201 KAR 11:121 for failing to act in accordance with a fiduciary standard towards a client and by failing to properly act as a dual agent as required by KRS Chapter 324.

Disposition: Ms. Nuccitelli expressly agreed to pay to the Complainant, as restitution, a sum of six thousand dollars (\$6,000.00) and to complete six (6) hours of continuing education in a Commission-approved course, in addition to any hours already required by Kentucky law. Within six-months of the final order, Respondent Nuccitelli shall provide in-house training to all licensed agents in her real estate company. Respondent Nuccitelli also agreed to accept a formal reprimand.

Keturah Parr (New Haven)
Case No. 03-0141

Violation: Ms. Parr agreed to a violation of KRS 324.160 (4)(u), specifically, 201 KAR 11:121, for failing to act in accordance with a fiduciary standard towards a client.

Disposition: Ms. Parr agreed to complete six (6) hours of continuing education in a Commission-approved law course, in addition to any hours already required by Kentucky law.

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HAS A NEW
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www.krec.ky.gov

COME SEE US AT THE 100th KENTUCKY STATE FAIR

The Kentucky Real Estate Commission will again have a booth at the Kentucky State Fair in the Government Section of the South Wing. We will be promoting using a licensed real estate agent and giving away combs, emery boards and magnets. The fair runs August 19 - 29, 2004. Stop by and see us. We would like to meet you!

Word Scramble

1. SERUGALTNIO

2. USREAQ OETAGOF

3. IPORRCALEC

4. TSAEUTTS

5. EIRCSDL SOU

Answers: 1. Regulations 2. Square Footage 3.
Reciprocal 4. Statutes 5. Disclosure

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The Kentucky Real
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be closed on:

September 5, 2004
(Labor Day)

&

November 11, 2004
(Veteran's Day)